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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 20, 1998

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE980138

Ex Parte: In the matter of
requiring reports and actions
related to independent system
operators, regional power
exchanges and retail access
pilot programs

ORDER ESTABLISHING INVESTIGATION

Pursuant to order in Case No. PUE950089, dated December 1, 1997, comments were sought from interested parties regarding several recommendations in the Staff's "Draft Working Model for Restructuring the Electric Utility Industry in Virginia," ("Staff Report") dated November 7, 1997. Those recommendations concern rate review and evaluation, retail access pilot programs, independent system operators ("ISOs") and regional power exchanges ("RPXs").

Comments were received in January, 1998, from the following entities: Allegheny Power; Apartment and Office Building Association of Washington; Midcon Corporation, Southern Environmental Law Center; Virginia Independent Power Producers, Inc.; Virginia, Maryland & Delaware Association of Electric

Cooperatives, Old Dominion Electric Cooperative, and the Virginia Distribution Cooperatives; Enron Corporation; Appalachian Power Company; Virginia Committee For Fair Utility Rates; Virginia Power; Division of Consumer Counsel, Office of the Attorney General; and Eastern Power Distribution, Inc.

The Commission has considered these comments and the Staff Report. We now find it appropriate to require further activities and information from various parties to assist us in moving forward as expeditiously as possible in the evolving world of electric utility restructuring. This order establishes a separate docket for that purpose.

The Staff Report recommended that the Commission help enable the formation of one or more ISOs and RPXs, and the implementation of retail access pilot programs and studies. Staff Report, p. 13. The Staff Report noted that there are many issues and problems to be addressed regarding each such subject. That point is certain, and we find that the Staff was correct in urging that the above measures be taken.

These matters have gained additional impetus from the General Assembly, which passed two related measures during the recent legislative session.

Senate Joint Resolution 91, in part, requests the Commission to direct the implementation of various restructuring pilot programs, and the development of ISOs and RPXs. House Bill 1172 concluded, among a number of other provisions, that the Commission and parties involved in electric generating and

transmission facilities, as well as the sale of electricity in Virginia, should work together to establish, by specified deadlines, ISOs and RPXs to serve the public interest.¹

We are generally aware that companies such as AEP-Virginia, Allegheny Power and Virginia Power are already engaged in efforts to develop one or more ISOs, and perhaps RPXs.² While those activities may continue, we will direct in this order that they now be conducted in conjunction with the Staff and other interested stakeholders, and that they focus on both ISOs and RPXs. Companies that have not started work in these areas will be required to do so, under the same procedures. In addition, we will require that various parties supply us with information as to their previous and present activities, and future plans and activities, regarding ISOs and RPXs. Finally, Virginia Power and AEP-Virginia will be directed to develop pilot programs in cooperation with Staff and other interested parties.

Certain of the information we seek in this order may be deemed by one or more entities subject to the obligations hereof to be so commercially sensitive that it should be handled in a confidential manner. However, these matters are of overriding importance to the public interest; they affect vital public services; and the public should therefore have reasonable access to the information which will be developed herein. Undue secrecy will also delay the progress of our work in this area. The

¹ As of the date of this order, HB1172 has not been signed into law by the Governor.

² Our Staff was provided this week with a report on ISOs prepared for Allegheny Energy, Virginia Power and other companies by the National Grid Company plc.

Commission intends to conduct its consideration of these issues in as open and expeditious a process as reasonably possible. Therefore, in an attempt to balance competing interests, we will adopt the procedures set forth in ordering paragraph VII., below, with regard to confidential treatment of information in this case.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

I. All investor-owned electric utilities doing business in Virginia shall begin work immediately, in conjunction with the Staff and other interested stakeholders, including entities providing electric generating and transmission facilities, those involved in the sale of electricity, the Attorney General's office, representatives of environmental interests, and residential, commercial and industrial customers, or representatives thereof, to develop one or more ISOs and RPXs to serve the public interest in the Commonwealth.

ISO and RPX proposals shall address, without limitation, issues of consumer protection, just and reasonable rates, market power, generation and transmission adequacy and reliability, accommodation of the interests of Virginia's retail electric cooperatives, Old Dominion Electric Cooperative and municipal electric systems and protection of the environment.

The details, objectives and characteristics of proposed ISOs and RPXs shall be developed and filed with the Commission by said companies as soon as practicable, but, in any event, so as to

allow necessary and appropriate considerations of these proposals, including any necessary public hearings, in a timely fashion.

II. All investor-owned electric utilities doing business in Virginia, and Old Dominion Electric Cooperative, are directed to file a report with this Commission on or before April 15, 1998, covering the period through March 31, 1998, responding to the following questions with regard to their previous and present activities, and future plans, concerning ISOs and RPXs:

A. What activities, discussions or meetings, if any, has your company, or any affiliate(s) of your company, conducted in the past, or is your company or any such affiliate(s) conducting currently, either internally within such company or affiliate, or among them, or with outside parties, regarding the formation or operation of one or more ISOs or RPXs? Provide full details of all such matters, including:

1. subjects or issues discussed, parties involved, questions resolved, conclusions reached, and agreements or proposed agreements executed or developed.
2. the composition, membership, operational principles and details, and geographical limits of any potential or proposed ISOs and/or RPXs.

3. the proposed or projected schedule for implementation and operation of such ISOs and RPXs, including dates for signing of agreements, dates for filing for approval by appropriate federal and state authorities (specify and describe what approvals are necessary), dates for conducting trial periods, in-service operational dates, etc.
4. the projected costs and staffing levels of such entities, including initial, start-up costs, as well as operating costs. How and by what entities will such costs be paid?
5. potential ISOs and RPXs rejected and the reasons and analysis leading to such rejection (if any potential ISO was rejected due to a conclusion that inadequate transmission or power transfer capabilities exist for such ISO, provide an analysis of what steps, including projected costs, would be necessary to correct such problems. Also, state whether the entities concerned intend to pursue these solutions, and why or why not.).

6. potential ISOs and RPXs that appear viable and the reasons and analysis leading to such conclusion of viability.
7. analyses of how specific potential ISOs and RPXs will or can be structured and governed so as to assure efficient, proper operation and independence of such entities from any influence from inappropriate outside sources.
8. analyses of issues of transmission and power transfer capability constraints and market power (vertical and horizontal) related to such activities or entities and how such issues will be addressed.
9. specific analyses of the time-related "must-run" characteristics of all units located within the geographic area bounded by any ISO and/or RPX that is being pursued.
10. proposals and analyses addressing the following issues: (i) the efficient location of generation; (ii) the efficient construction of new transmission facilities; (iii) transmission pricing methodologies, including congestion pricing; and (iv)

internal monitoring and assessment practices.

11. any market studies or other studies conducted regarding any such matters.

12. copies of all relevant documents.

B. With regard to all matters reported on above, how would the public interest have been, or be, benefited or harmed by the specific matter discussed, and more broadly, how is your company attempting to balance shareholder and customer interests in all of its activities regarding ISO and RPX issues? Provide copies of all relevant documents.

C. With regard to all matters reported on above, how would the interests of Virginia's retail electric cooperatives, Old Dominion Electric Cooperative and municipal electric systems have been, or be, benefited or harmed by the specific matter discussed, and more broadly, how is your company attempting to accommodate the needs and special considerations of such entities in all of its activities regarding ISOs and RPXs? Provide copies of all relevant documents.

D. What future activities does your company, or any affiliate(s) of your company, plan, if any, with respect to the same issues and questions raised in ordering paragraphs II.A., B. and C., above? Report in the same detail and specificity as delineated in such ordering paragraphs. Provide copies of all relevant documents.

III. All investor-owned electric utilities doing business in Virginia, and Old Dominion Electric Cooperative, are directed to file a report with this Commission monthly, beginning May 15, 1998, (covering the immediately preceding calendar month), until further order of this Commission, responding to the same questions with regard to their previous and present activities, and future plans, concerning ISOs and RPXs, as set forth in ordering paragraph II., above.

IV. All entities subject to the obligations imposed by this order shall cooperate fully with the Staff of this Commission, and respond within ten days to Staff data requests, interrogatories, and other requests for information which the Staff may propound, regarding the issues and questions raised in this order.

V. Virginia Power and AEP-Virginia, which together serve 85% of retail electric customers in Virginia, shall begin work immediately, in conjunction with the Staff, directed toward the implementation in each of said companies' service territory of at least one retail access pilot program and study. Such programs shall be designed to address at least the issues and concerns identified on pages 14 through 15 of the Staff Report. As a part of such efforts, the companies shall conduct workshops with other interested stakeholders, such as entities providing electric generating and transmission facilities, those involved in the sale of electricity, the Attorney General's office,

representatives of environmental interests, and residential, commercial and industrial customers, or representatives thereof, to solicit input regarding the proper structure and characteristics of such pilots.

The details, objectives and characteristics of such proposed pilot programs shall be developed and filed with the Commission by said companies on or before August 1, 1998. By further order of this Commission, any necessary public hearings will be scheduled after said date to consider such proposals.

Other companies providing retail electric service in Virginia are welcome to propose retail access pilot programs in their service territories as well.³ They may do so by notifying the Staff in writing of such intention as soon as practicable and by following the procedures set forth in this ordering paragraph V.

VI. All interested parties may file comments with the Commission on or before April 30, 1998, on the matters covered in this order. In particular, parties are invited to suggest issues for consideration and investigation regarding ISOs and RPXs in addition to those raised in this order. Such parties may also comment in response to any reports or filings required in ordering paragraphs I. through V. hereof by filing such comments

³ The Staff Report recommended that pilot programs also be implemented by at least two retail electric cooperatives. While we are not mandating that step at this time, cooperatives are encouraged to propose pilots on their own initiative.

on or before 15 days after the filing dates of any such reports or filings.

VII. The following procedures regarding confidential treatment of material shall be observed by Staff and all parties hereto.

A. Any entity seeking to have any portion of material it files in this case handled in a confidential manner shall append an affidavit to such material, signed by a responsible official of said entity, stating which portion or portions of said material should be kept confidential and specifying in explicit detail why confidential treatment is necessary. For example, if the claim is that disclosure could harm the company commercially, this contention must be supported in detail. Such affidavit shall include a representation that such material is not otherwise available to the public. The affidavit shall also state whether confidential treatment is requested for the affidavit itself, and the reasons therefor. Generalized statements of the grounds for confidential treatment of materials, or an effort to have entire documents handled as such, will not be deemed sufficient compliance with this procedure.

B. Material containing information which is sought to be kept confidential under paragraph A., above, shall be filed with the Commission in two copies. One copy shall be a complete and correct copy of the material, with no redactions. The Commission and its Staff shall have full access to this copy.

The other copy shall have proposed confidential material, described in the affidavit, redacted. This second copy shall be distributed by the filing entity to the persons on the service list created under ordering paragraph VIII., below, and such copy will also be made available for public inspection in the Clerk's Office.

C. Upon compliance with the above procedures, the Commission will hold the proposed confidential material under seal until after at least three days' notice to the filing entity of an opportunity for hearing, and further order of the Commission after such opportunity. Proceedings to review confidential treatment of material may be initiated on the Commission's own motion, or on motion of the Staff or any party in interest. Parties in interest seeking access to such material under confidentiality agreements may file appropriate motions with the Commission.

VIII. To provide initial notice of this proceeding, copies of this order shall be sent to all persons currently on the service list for Case No. PUE950089. Those entities required to file any documents or materials with the Commission under any provision of this order ("Filing Entities") are required to serve copies thereof, simultaneously with such filing, only on persons in interest which have provided written notice to the Clerk, with simultaneous copies to all Filing Entities and those persons in interest which have previously provided such written notices,

that such persons desire to receive copies of documents or materials in this case. Those giving such notice shall be supplied by the Filing Entities with copies of all further filings in this case which are due at least 15 days after the date of receipt of the notice. Only entities on the service list created by the notice procedure described in this paragraph shall receive copies of further pleadings and orders in this case. The provisions of this paragraph are subject in all respects to the provisions regarding confidentiality contained in ordering paragraph VII. hereof.